

§ 622.9

(d) *Official notice.* All matters officially noticed by the presiding officer shall appear on the record.

§ 622.9 Subpoenas.

(a) *Issuance.* The presiding officer or, in the event he or she is unavailable, the Board may issue subpoenas and subpoena duces tecum at the request of any party requiring the attendance of witnesses or the production of documents at a designated place. The person seeking the subpoena may be required, as a condition precedent to the issuance of the subpoena, to show the general relevance and reasonable scope of the testimony or other evidence sought. Where it appears to the presiding officer that a subpoena may be unreasonable, oppressive, excessive in scope, unduly burdensome, or delay the proceeding, the presiding officer has discretion to refuse to issue a subpoena or to issue it only upon such conditions as fairness requires.

(b) *Motions to quash.* Any person to whom a subpoena is directed may, prior to the time specified therein for compliance but in no event more than 10 days after the date the subpoena was served, with notice to the party requesting the subpoena, apply to the presiding officer, or in the event he or she is unavailable to the Board, to quash or modify the subpoena, accompanying such application with a brief statement of the reasons therefor. The presiding officer may deny the application or, upon notice to the party on whose behalf the subpoena was issued and after affording that party an opportunity to reply, may quash or modify the subpoena or impose reasonable conditions including, in the case of a subpoena duces tecum, a requirement that the party on whose behalf the subpoena was issued pay in advance the reasonable cost of copying and transporting the documentary evidence to the designated place.

(c) *Service of subpoena.* A subpoena may be served upon the person named therein by personal service or certified mail with a return receipt to the last known address of the person. The fees for one day's attendance and mileage as specified in paragraph (d) of this section must be tendered at the time of service unless the subpoena is issued on

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behalf of the FCA. If personal service is made by a U.S. marshal, a deputy U.S. marshal, or an employee of the FCA, such service shall be evidenced by the return thereon. If personal service is made by any other person, such person shall sign an affidavit describing the manner in which service is made, and return such affidavit with a copy of the subpoena. In case of failure to make service, reasons for the failure shall be stated on the original subpoena. The original or a copy of the subpoena, bearing or accompanied by the required return, affidavit, statement or return receipt, shall be returned without delay to the presiding officer.

(d) *Attendance of witnesses.* The attendance of witnesses at a designated place may be required from any place in any State or territory subject to the jurisdiction of the United States. Witnesses who are subpoenaed shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States. Fees required by this paragraph shall be paid by the party upon whose application the subpoena is issued.

(e) *Production of documents.* The production of documents at a designated place may be required from any place in any State or territory subject to the jurisdiction of the United States. In lieu of an original document, a certified or authenticated copy may be produced. However, any party has the right to inspect the original document.

§ 622.10 Depositions.

(a) *Application to take deposition.* Any party desiring to take the deposition of any person shall make written application to the presiding officer setting forth the name and address of the witness, the subject matter concerning which the witness is expected to testify, its relevance, the time and place of the deposition, and the reasons why such deposition should be taken. The application may include a request that specified documents be produced at the deposition. A copy of the application shall be served on the other parties at the same time the application is filed with the presiding officer.

(b) *Subpoena; notice to other parties.* Upon a showing that the testimony or other evidence sought will be material,